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MAY 21 1993

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
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May 21, 1993

Ms. Donna Searcy  
Secretary of Federal  
Communications Commission  
1919 M Street, NW  
Washington, DC 20054

Re: Channel Exclusivity for Qualified Private Paging System  
PR Docket No. 93-35

Dear Ms. Searcy:

Transmitted herewith on behalf of American Paging, Inc. are an original and nine copies of its Reply Comments in the above-captioned proceeding.

In the event that there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,

  
George Y. Wheeler

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAY 21 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of:	)	
	)	
Amendment of the Commission's	)	PR Docket 93-35
Rules and to Provide Channel	)	
Exclusivity to Qualified Private	)	RM-7986
Paging Systems at 929-930 MHz	)	

TO: The Commission

REPLY COMMENTS OF  
AMERICAN PAGING, INC.

American Paging, Inc. ("API"), by its attorneys, submits its reply comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding ("PCP NPRM").<sup>1</sup>

Numerous commenters have filed in support of the Commission's initiatives to make PCP frequencies available on an exclusive basis to encourage development of spectrum-efficient multi-transmitter nationwide, regional and local PCP systems. No commenters have raised any considerations which would limit or preclude the use of 929.3375 MHz as an exclusive channel for the nationwide PCP system described in our Comments. We request that the Commission adopt promptly our proposed channel substitution to make 929.3375 MHz available for designation as a nationwide exclusive channel.

<sup>1</sup> The abbreviated names used to refer to the Comments of other parties here are listed in the attached Certificate of Service beside the full name of each party.

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We discuss here aspects of the Commission's proposals which we believe also should be adopted to promote spectrum efficient uses of PCP frequencies, development of new and innovative service offerings, rapid and widespread availability of advanced paging services and expanded access to competitive paging services.

#### DISCUSSION

1. The Commission Should Limit The Number Of Nationwide/Regional PCP Frequencies Which Can Be Held By Any Licensee.

We support the Commission's proposed policies precluding any applicant from applying for a second exclusive PCP frequency in an area where it has not completed construction and commenced operation of a qualified system on its first exclusive frequency. We also agree with others that there are benefits in permitting licensees to hold authorizations for more than one exclusive PCP

~~frequency.2 provided no entities are entitled to more than one~~

restrictions will promote expanded competitive opportunities, encourage the rapid implementation of PCP systems and deter possible speculative filings and warehousing of spectrum.

2. The Commission's Proposed Rules For Nationwide, Regional And Local Channel Exclusivity Should Be Clarified To Deter Speculation.

A number of proposals have been made to adjust the qualifications or prerequisites for channel exclusivity to avoid or at least to deter speculation and warehousing. We agree with these highly beneficial objectives.

We have previously proposed that the minimum number of

~~requirements to qualify for local exclusivity should be~~

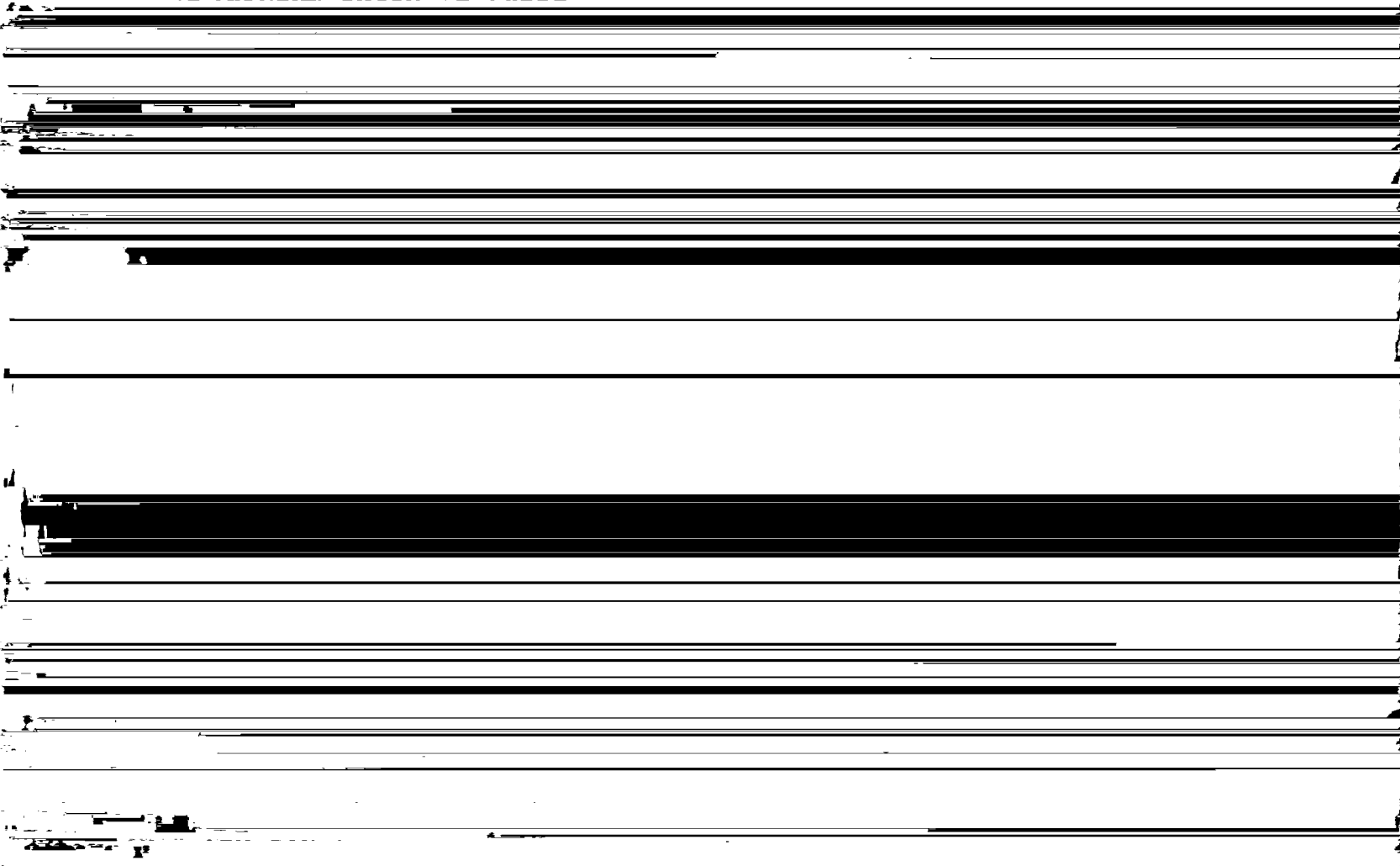
We disagree with the commenters who propose modifications to the qualifications criteria for nationwide and regional exclusivity originally proposed in the PCP NPRM. We think that the Commission's proposals appropriately balance the public policies of encouraging prompt implementation of new PCP services and deterring speculative filings.

Regarding use of frequency agile transmitters to support multi-channel operations, we have no objection to use of such system configurations. At the same time, we cannot agree that licensees implementing such systems should be permitted to treat transmitters already authorized to operate on one exclusive PCP frequency as counting toward meeting the required minimums for an additional exclusive PCP frequency. If the Commission is going to permit any PCP licensee to operate multiple frequencies with overlapping protected service contours, and we think it should, the Commission should also require any such licensee to meet the same minimum standards for exclusive channels which must be met by PCP systems which do not employ frequency agile transmitters. This approach is consistent and fair and will promote desirable minimum levels of PCP service availability and quality to justify the award of exclusive channel status.

3. The Commission Should Give Existing PCP Licensees Who Are Currently Constructing Nationwide or Regional Systems The Option To Qualify For Extended Implementation.

We agree with PacTel (Comments, pp. 15-16) that existing licensees, in addition to future applicants for exclusive PCP channels, should be given the chance to request "slow growth" extended implementation for their nationwide and regional systems. Particularly for a large system such as the system described in our Comments, involving hundreds of new transmitter sites, it is reasonable to expect that construction scheduling and logistics will require more than the eight month construction period typically provided in the case of individual stations and small networks.

We note that the Commission has recently modified its rules governing extended implementation periods (PR Docket No. 92-210)



defer final action in these proceedings pending resolution of the regulatory parity considerations raised by these commenters. We agree with the Commission that inquiries with regard to such matters are beyond the scope of these proceedings.<sup>5</sup>

We recommend that the Commission initiate separate proceedings to address the regulatory parity issues which several commenters have raised in these proceedings. While we oppose all requests to terminate or defer action here, we believe that

resolution of these issues is currently needed and commenters

We agree with APCP (Comments, p.16) and PacTel (Comments, p. 11) that nationwide co-channel exclusivity should encompass Alaska, Hawaii and Puerto Rico in addition to the continental United States. Inclusion of all fifty states and Puerto Rico will be an important incentive to promote the availability of nationwide PCP services to eligible users in Alaska, Hawaii and Puerto Rico.

6. NABER Should Be Retained As The Sole Frequency Coordinator For One-Way Paging Operations In The 929-930 MHz Band.

The Commission has strong support in the record here to retain NABER as the sole frequency coordinator for one-way PCP paging operations in the 929-930 MHz band.<sup>7</sup> The only commenter supporting multiple frequency coordinators was ITA, which the Commission named as a possible additional selection. The Commission should now confirm NABER's continued status as the sole PCP frequency coordinator in this band.

7. The Commission Should Reject The Proposals Of MAP and ITA Regarding Qualification By Existing PCP Systems For Channel Exclusivity And Limitation/Termination Of Nationwide Exclusivity.

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<sup>7</sup> APCP Comments, pp 9-10; Callpage Comments, p. 14; Mtel Comments, p. 12; PageMart Comments, p. 17; and Pagenet Comments, p. 23.



We oppose MAP's proposal to permit existing PCP licensees to apply for expanded facilities to qualify for exclusivity during a one-year period after release of the Commission's decision in this proceeding. We agree with the Commission that the prompt resolution regarding the protected status of existing systems is essential.<sup>8</sup> The Commission should adopt its proposed thirty-day filing window approach.

We also oppose the ITA suggestion to limit and/or terminate the channel exclusivity of nationwide licensees.<sup>9</sup> The Commission should reject ITA's proposals as fundamentally contrary to the Commission's goals in proposing channel exclusivity. The optimally efficient use of PCP frequencies, the development of cost-effective, new and innovative service offerings, the rapid and effective implementation of advanced paging technologies and systems, and the promotion of competitive opportunities for nationwide PCP operators depend, as the Commission has stated, upon a "...stable, predictable environment for licensees by eliminating the risk that other users will be assigned the same channel in their service area."<sup>10</sup> In order to provide the public benefits envisaged by the Commission, nationwide licensees must have the opportunity to implement systems in areas where there are existing co-channel licensees and must have the fre-

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<sup>8</sup> PCP NPRM, Para. 41.

<sup>9</sup> ITA Comments, p. 6.

<sup>10</sup> PCP NPRM, Para. 16

quency protections necessary to expand coverage beyond the areas covered by their initial system configuration.

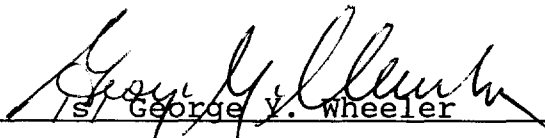
CONCLUSION

The Commission should promptly adopt its proposals to designate exclusive channels for the implementation of nationwide, regional and local PCP systems. Frequency 929.3375 MHz should be replaced as one of the five shared frequencies so that it can be available for exclusive channel operations.

Respectively submitted,

AMERICAN PAGING, INC.

By

  
/s/ George Y. Wheeler

George Y. Wheeler

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May 21, 1993

CERTIFICATE OF SERVICE

I, Abbie Weiner, a secretary in the law firm of Koteen & Naftalin, do hereby certify that a copy of the foregoing "Reply Comments of American Paging, Inc.", was sent by first class U.S. mail, postage prepaid, on this 21th day of May, 1993 to the offices of the following:

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